

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LUIS A. CASTELLANOS,

Plaintiff,

v.

HARDER MECHANICAL  
CONTRACTORS,

Defendant.

Case No. 1:23-cv-01639-KES-CDB

**SCHEDULING ORDER** (Fed. R. Civ. P. 16)

Discovery Deadlines:

- Rule 26 Disclosures: June 17, 2024
- Amended Pleadings: October 3, 2024
- Expert Disclosures: December 4, 2024
- Rebuttal Expert Disclosures: December 18, 2024
- Fact Discovery Cut-Off: November 15, 2024
- Expert Discovery Cut-Off: January 10, 2025
- Mid-Discovery Status Conference: September 26, 2024, at 9:30 a.m., in Bakersfield Federal Courthouse 510 19th Street, Bakersfield, CA 93301

Non-Dispositive Motion Deadlines:

- Filing: January 24, 2025
- Hearing: February 28, 2025, at 10:30 a.m., Bakersfield Federal Courthouse

Dispositive Motion Deadlines:

- Filing: March 7, 2025
- Hearing: April 14, 2025 1:30 p.m., in Robert E. Coyle Federal Courthouse, Fresno, Courtroom 6, 7th floor

Pre-Trial Conference: August 4, 2025, at 1:30 p.m., in Fresno Federal Courthouse

Trial: September 30, 2025, at 9:00 a.m., before District Judge Kirk E. Sherriff

1 Plaintiff Luis A. Castellanos, proceeding pro se, initiated this action with the filing of a  
2 complaint on November 22, 2023. (Doc. 1). In the operative first amended complaint, filed  
3 February 9, 2024, in response to the Court's screening order, Plaintiff alleges that he was retaliated  
4 against by Defendant after reporting a foreman for disability discrimination in the workplace.  
5 Defendant alleges that Plaintiff was laid off for a legitimate purpose in the normal course of  
6 business and given an opportunity to return to work.

7 The parties convened via Zoom videoconference for a scheduling conference before  
8 Magistrate Judge Christopher D. Baker on June 10, 2024. Plaintiff appeared pro se, and Liza  
9 Christie appeared on behalf of Defendant.

10 **I. Magistrate Judge Consent:**

11 The parties have not yet submitted their required consent/decline forms.

12 **Notice of Congested Docket and Court Policy of Trailing**

13 Due to the District Judges' heavy caseload, the adopted policy of the Fresno Division of the  
14 Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set before a  
15 District Judge, the parties will trail indefinitely behind any higher priority criminal or older civil case  
16 set on the same date until a courtroom becomes available. The trial date will not be reset.

17 The Magistrate Judges' availability is far more realistic and accommodating to parties than that  
18 of the District Judges who carry the heaviest caseloads in the nation and who must prioritize criminal  
19 and older civil cases over more recently filed civil cases. A Magistrate Judge may conduct trials,  
20 including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73,  
21 and Local Rule 305. Any appeal from a judgment entered by a Magistrate Judge is taken directly to the  
22 United States Court of Appeal for the Ninth Circuit.

23 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to  
24 conduct all further proceedings, including trial, and to file a consent/decline form (provided by the  
25 Court at the inception of this case) indicating whether they will consent to the jurisdiction of the  
26 Magistrate Judge.

27 **II. Pleading Amendment**

28 Any motions to amend the pleadings, including to substitute "Doe" defendants, must be filed by

**October 3, 2024.** Filing a motion and/or stipulation requesting leave to amend the pleadings does not reflect on the propriety of the amendment or imply good cause to modify the existing schedule, if necessary. All proposed amendments must (A) be supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P. 15(a), that such an amendment is not (1) prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or (4) futile, *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

### **III. Discovery Plan and Cut-Off Date**

The parties shall exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1) by no later than **June 17, 2024**.

The parties are ordered to complete all discovery pertaining to non-experts on or before **November 15, 2024**, and all discovery pertaining to experts on or before **January 10, 2025**.

The parties are directed to disclose all expert witnesses<sup>1</sup>, in writing, on or before **December 4, 2024**, and to disclose all rebuttal experts on or before **December 18, 2024**. The written designation of retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and shall include all information required thereunder. Failure to designate experts in compliance with this order may result in the Court excluding the testimony or other evidence offered through such experts that are not disclosed pursuant to this order.

The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts and their opinions. Experts must be fully prepared to be examined on all subjects and opinions included in the designation. Failure to comply will result in the imposition of sanctions, which may include striking the expert designation and preclusion of expert testimony.

The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement disclosures and responses to discovery requests will be strictly enforced.

A mid-discovery status conference is scheduled for **September 26, 2024**, at 9:30 a.m. before

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<sup>1</sup> In the event an expert will offer opinions related to an independent medical or mental health evaluation, the examination SHALL occur sufficiently in advance of the disclosure deadline so the expert's report fully details the expert's opinions in this regard.

1 Judge Baker. Counsel SHALL file a joint mid-discovery status conference report no later than one  
2 week before the conference. Counsel also SHALL lodge the joint status report via e-mail to  
3 CDBorders@caed.uscourts.gov. The joint status report SHALL outline the discovery counsel have  
4 completed and that which needs to be completed as well as any impediments to completing discovery  
5 within the deadlines set forth in this order. Counsel SHALL discuss settlement and certify in the joint  
6 status report (1) that they have met/conferred regarding settlement, and (2) proposed dates for  
7 convening a settlement conference before a U.S. Magistrate Judge if the parties jointly believe a  
8 settlement conference would be fruitful.

9 **IV. Pre-Trial Motion Schedule**

10 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later  
11 than **January 24, 2025<sup>2</sup>** and heard on or before **February 28, 2025**, at 10:30 a.m. Discovery motions  
12 shall be set before Judge Baker. For these hearings and at the direction of the Courtroom Deputy Clerk,  
13 the Court may direct counsel to appear remotely (via Zoom). For hearings noticed to occur in-person,  
14 the Court may permit counsel to appear remotely (via Zoom) provided the Courtroom Deputy Clerk  
15 receives a written notice of the request to appear remotely no later than five court days before the  
16 noticed hearing date.

17 No motion to amend or stipulation to amend the case schedule will be entertained unless it is  
18 filed at least one week before the first deadline the parties wish to extend.

19 No written discovery motions shall be filed without the prior approval of Judge Baker. A party  
20 with a discovery dispute must first confer with the opposing party in a good faith effort to resolve by  
21 agreement the issues in dispute. If that good faith effort is unsuccessful, prior to making any filing, the  
22 requesting party promptly shall seek a conference with all involved parties and Judge Baker. To  
23 schedule this conference, the parties should contact the Courtroom Deputy Clerk, Susan Hall, at (661)  
24 326-6620 or via email at [SHall@caed.uscourts.gov](mailto:SHall@caed.uscourts.gov). At least two days before the conference, counsel  
25 shall file a joint, informal letter brief detailing each party's position. Each party's narrative shall not  
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27 <sup>2</sup> Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable  
28 time of discovery of the dispute, but in no event later than 30 days after the expiration of the non-  
expert discovery deadline.

1 exceed five pages, excluding exhibits, and shall cite relevant authority in support of the party's  
2 position. At the commencement of the conference, if the parties jointly agree to Judge Baker's  
3 consideration and resolution of the discovery disputes outside the formal Local Rule 251 procedures,  
4 the Court will entertain arguments by the parties and issue a written ruling. If the parties do not jointly  
5 agree to the informal discovery dispute resolution procedures set forth herein, the requesting party may  
6 then seek relief through motion to compel. Counsel must comply with Local Rule 251 with respect to  
7 discovery disputes and certify their compliance in any discovery motion.

8 All dispositive pre-trial motions shall be filed no later than **March 7, 2025**, and heard no later  
9 than **April 14, 2025**, before Judge Sherriff at 1:30 p.m. In scheduling such motions, counsel shall  
10 comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.

11 **V. Motions for Summary Judgment or Summary Adjudication**

12 At least 21 days before filing a motion for summary judgment or motion for summary  
13 adjudication, the parties are ORDERED to meet, in person or by telephone, to confer about the issues to  
14 be raised in the motion.

15 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a  
16 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole  
17 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the  
18 issues for review by the court; 5) explore the possibility of settlement before the parties incur the  
19 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

20 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed  
21 statement of undisputed facts at least five days before the conference. The finalized joint statement of  
22 undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be  
23 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint  
24 statement of undisputed facts.

25 In the notice of motion, the moving party SHALL certify that the parties have met and  
26 conferred as ordered above or set forth a statement of good cause for the failure to meet and confer.  
27 Failure to comply may result in the motion being stricken.

1 **VI. Pre-Trial Conference Date**

2 **August 4, 2025**, at 1:30 p.m. before Judge Sherriff. The parties are ordered to file a Joint  
3 Pretrial Statement at least 14 days in advance pursuant to Local Rule 281(a)(2). The parties are further  
4 directed to submit a digital copy of their pretrial statement in Word format, to Judge Sherriff's  
5 chambers.

6 Counsels' attention is directed to Rules 281 and 282 of the Local Rules of Practice for the  
7 Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference.  
8 The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the  
9 Local Rules the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the  
10 Court to explain the nature of the case to the jury during voir dire.

11 **VII. Trial Date**

12 **September 30, 2025**, at 9:00 a.m. in Courtroom 6 before the Honorable Kirk E. Sherriff.

13 A. This is a jury trial.

14 B. Counsels' Estimate of Trial Time: 3-5 days.

15 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of  
16 California, Rule 285.

17 **VIII. Request for Bifurcation, Appointment of Special Master, or other**

18 **Techniques to Shorten Trial**

19 Not applicable at this time.

20 **IX. Related Matters Pending**

21 There are no pending related matters.

22 **X. Compliance with Federal Procedure**

23 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure  
24 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any  
25 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently  
26 handle its increasing case load and sanctions will be imposed for failure to follow both the Federal  
27 Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

**XI. Effect of this Order**

The foregoing order represents the best estimate of the court and counsel as to the agenda most suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by subsequent status conference.

**The dates set in this Order are considered to be firm and will not be modified absent a showing of good cause even if the request to modify is made by stipulation. Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations, and where appropriate attached exhibits, which establish good cause for granting the relief requested.**

IT IS SO ORDERED.

Dated: **June 10, 2024**

  
UNITED STATES MAGISTRATE JUDGE